

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS

NOV 10 1998

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

JAMES W. MCCORMACK, CLERK  
By: *[Signature]*  
DEP. CLERK

**VERNICESA F. BARNES**

**PLAINTIFF**

**v.**

**LR-C-98-547**

**MCDONALD'S CORPORATION,  
NANCY BALL D/B/A MCDONALD'S  
NDK CORPORATION**

**DEFENDANT**

**ORDER DENYING MOTION TO DISMISS  
AS TO DEFENDANT MCDONALD'S CORPORATION  
AND GRANTING AS TO DEFENDANT NANCY BALL**

Pending before the Court is Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction. Fed. R. Civ. P. 12(b)(1); (Doc. No. 3). Plaintiff has responded to this Motion by petitioning the Court to withdraw Plaintiff's claim against Defendant Nancy Ball. (Doc. No. 5). Because there is diversity between Defendant McDonald's Corporation and Plaintiff, removal of Defendant Ball would preserve complete diversity. 28 U.S.C. § 1332. Since all three counts in the original complaint appear to be primarily directed at the conduct of McDonald's Corporation and only secondarily at Defendant Ball, Defendant Ball is not an indispensable party to this case. (Doc. No. 1). Therefore, the Court finds that justice demands permitting Plaintiff to voluntarily withdraw any claims against Defendant Ball. Fed. R. Civ. P. 15(a). The Court, however, preserves the claims against Defendant McDonald's Corporation.

It is so ORDERED this 10<sup>th</sup> day of November 1998.

*[Signature]*  
UNITED STATES DISTRICT JUDGE

THIS DOCUMENT ENTERED ON DOCKET SHEET IN  
COMPLIANCE WITH RULE 58 AND/OR 79(a) FRCP

At 11/12/98 BY Cmt

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F I L E C O P Y

bt

UNITED STATES DISTRICT COURT  
Eastern District of Arkansas  
U.S. Post Office & Court House  
600 West Capitol, Suite 402  
Little Rock, Arkansas 72201-3325

November 12, 1998

\* \* MAILING CERTIFICATE OF CLERK \* \*

Re: 4:98-cv-00547.

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James W. McCormack, Clerk

Date: 11/12/98

BY: 